

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE NO. 2 FOR  
**SENATE BILL NO. 674**  
**99TH GENERAL ASSEMBLY**

4409H.11C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 32.200, 143.011, 143.022, 143.071, 143.105, 143.151, 143.161, 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, and to enact in lieu thereof thirteen new sections relating to taxation.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 32.200, 143.011, 143.022, 143.071, 143.105, 143.151, 143.161, 2 143.431, 143.451, 143.461, 143.471, and 620.1350, RSMo, are repealed and thirteen new 3 sections enacted in lieu thereof, to be known as sections 32.200, 143.011, 143.022, 143.071, 4 143.151, 143.161, 143.431, 143.451, 143.455, 143.461, 143.471, 148.720, and 620.1350, to read 5 as follows:

32.200. The "Multistate Tax Compact" is hereby enacted into law and entered into with 2 all jurisdictions legally joining therein, in the form substantially as follows:

3 **MULTISTATE TAX COMPACT**

4 **Article I**

5 The purposes of this compact are to:

- 6 1. Facilitate proper determination of state and local tax liability of multistate taxpayers, 7 including the equitable apportionment of tax bases and settlement of apportionment disputes.
- 8 2. Promote uniformity or compatibility in significant components of tax systems.
- 9 3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other 10 phases of tax administration.
- 11 4. Avoid duplicative taxation.

12 **Article II**

13 As used in this compact:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.





86 (4) "Financial organization" means any bank, trust company, savings bank, industrial  
87 bank, land bank, safe deposit company, private banker, savings and loan association, credit  
88 union, cooperative bank, small loan company, sales finance company, investment company, or  
89 any type of insurance company.

90 (5) "Nonbusiness income" means all income other than business income.

91 (6) "Public utility" means any business entity

92 (a) which owns or operates any plant, equipment, property, franchise, or license for the  
93 transmission of communications, transportation of goods or persons, except by pipeline, or the  
94 production, transmission, sale, delivery, or furnishing of electricity, water or steam; and

95 (b) whose rates of charges for goods or services have been established or approved by  
96 a federal, state or local government or governmental agency.

97 (7) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this  
98 article.

99 (8) "State" means any state of the United States, the District of Columbia, the  
100 Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign  
101 country or political subdivision thereof.

102 (9) "This state" means the state in which the relevant tax return is filed or, in the case of  
103 application of this article, to the apportionment and allocation of income for local tax purposes,  
104 the subdivision or local taxing district in which the relevant tax return is filed.

105 2. Any taxpayer having income from business activity which is taxable both within and  
106 without this state, other than activity as a financial organization or public utility or the rendering  
107 of purely personal services by an individual, shall allocate and apportion his net income as  
108 provided in this article. If a taxpayer has income from business activity as a public utility but  
109 derives the greater percentage of his income from activities subject to this article, the taxpayer  
110 may elect to allocate and apportion his entire net income as provided in this article.

111 3. For purposes of allocation and apportionment of income under this article, a taxpayer  
112 is taxable in another state if

113 (1) in that state he is subject to a net income tax, a franchise tax measured by net income,  
114 a franchise tax for the privilege of doing business, or a corporate stock tax; or

115 (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of  
116 whether, in fact, the state does or does not.

117 4. Rents and royalties from real or tangible personal property, capital gains, interest,  
118 dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income,  
119 shall be allocated as provided in paragraphs 5 through 8 of this article.

120 5. (1) Net rents and royalties from real property located in this state are allocable to this  
121 state.

122 (2) Net rents and royalties from tangible personal property are allocable to this state:

123 (a) if and to the extent that the property is utilized in this state; or

124 (b) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer  
125 is not organized under the laws of or taxable in the state in which the property is utilized.

126 (3) The extent of utilization of tangible personal property in a state is determined by  
127 multiplying the rents and royalties by a fraction, the numerator of which is the number of days  
128 of physical location of the property in the state during the rental or royalty period in the taxable  
129 year and the denominator of which is the number of days of physical location of the property  
130 everywhere during all rental or royalty periods in the taxable year. If the physical location of the  
131 property during the rental or royalty period is unknown or unascertainable by the taxpayer,  
132 tangible personal property is utilized in the state in which the property was located at the time  
133 the rental or royalty payer obtained possession.

134 6. (1) Capital gains and losses from sales of real property located in this state are  
135 allocable to this state.

136 (2) Capital gains and losses from sales of tangible personal property are allocable to this  
137 state if

138 (a) the property had a situs in this state at the time of the sale; or

139 (b) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in  
140 the state in which the property had a situs.

141 (3) Capital gains and losses from sales of intangible personal property are allocable to  
142 this state if the taxpayer's commercial domicile is in this state.

143 7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile  
144 is in this state.

145 8. (1) Patent and copyright royalties are allocable to this state:

146 (a) if and to the extent that the patent or copyright is utilized by the payer in this state;  
147 or

148 (b) if and to the extent that the patent copyright is utilized by the payer in a state in which  
149 the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

150 (2) A patent is utilized in a state to the extent that it is employed in production,  
151 fabrication, manufacturing, or other processing in the state or to the extent that a patented  
152 product is produced in the state. If the basis of receipts from patent royalties does not permit  
153 allocation to states or if the accounting procedures do not reflect states of utilization, the patent  
154 is utilized in the state in which the taxpayer's commercial domicile is located.

155 (3) A copyright is utilized in a state to the extent that printing or other publication  
156 originates in the state. If the basis of receipts from copyright royalties does not permit allocation

157 to states or if the accounting procedures do not reflect states of utilization, the copyright is  
158 utilized in the state in which the taxpayer's commercial domicile is located.

159 9. All business income shall be apportioned to this state by multiplying the income by  
160 a fraction, the numerator of which is the property factor plus the payroll factor plus the sales  
161 factor, and the denominator of which is three.

162 10. The property factor is a fraction, the numerator of which is the average value of the  
163 taxpayer's real and tangible personal property owned or rented and used in this state during the  
164 tax period and the denominator of which is the average value of all the taxpayer's real and  
165 tangible personal property owned or rented and used during the tax period.

166 11. Property owned by the taxpayer is valued at its original cost. Property rented by the  
167 taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual  
168 rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from  
169 subrentals.

170 12. The average value of property shall be determined by averaging the values at the  
171 beginning and ending of the tax period but the tax administrator may require the averaging of  
172 monthly values during the tax period if reasonably required to reflect properly the average value  
173 of the taxpayer's property.

174 13. The payroll factor is a fraction, the numerator of which is the total amount paid in  
175 this state during the tax period by the taxpayer for compensation and the denominator of which  
176 is the total compensation paid everywhere during the tax period.

177 14. Compensation is paid in this state if:

178 (1) the individual's service is performed entirely within the state;

179 (2) the individual's service is performed both within and without the state, but the service  
180 performed without the state is incidental to the individual's service within the state; or

181 (3) some of the service is performed in the state; and

182 (a) the base of operations or, if there is no base of operations, the place from which the  
183 service is directed or controlled is in the state; or

184 (b) the base of operations or the place from which the service is directed or controlled  
185 is not in any state in which some part of the service is performed, but the individual's residence  
186 is in this state.

187 15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer  
188 in this state during the tax period, and the denominator of which is the total sales of the taxpayer  
189 everywhere during the tax period.

190 16. Sales of tangible personal property are in this state if:

191 (1) the property is delivered or shipped to a purchaser, other than the United States  
192 government, within this state regardless of the f.o.b. point or other conditions of the sale; or

193 (2) the property is shipped from an office, store, warehouse, factory, or other place of  
194 storage in this state; and

195 (a) the purchaser is the United States government; or

196 (b) the taxpayer is not taxable in the state of the purchaser.

197 17. Sales, other than sales of tangible personal property, are in this state if:

198 (1) the income-producing activity is performed in this state; or

199 (2) the income-producing activity is performed both in and outside this state and a  
200 greater proportion of the income-producing activity is performed in this state than in any other  
201 state, based on costs of performance.

202 18. If the allocation and apportionment provisions of this article do not fairly represent  
203 the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax  
204 administrator may require, in respect to all or any part of the taxpayer's business activity, if  
205 reasonable:

206 (1) separate accounting;

207 (2) the exclusion of any one or more of the factors;

208 (3) the inclusion of one or more additional factors which will fairly represent the  
209 taxpayer's business activity in this state; or

210 (4) the employment of any other method to effectuate an equitable allocation and  
211 apportionment of the taxpayer's income.

#### 212 Article V

213 1. Each purchaser liable for a use tax on tangible personal property shall be entitled to  
214 full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him  
215 with respect to the same property to another state and any subdivision thereof. The credit shall  
216 be applied first against the amount of any use tax due the state, and any unused portion of the  
217 credit shall then be applied against the amount of any use tax due a subdivision.

218 2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or  
219 other exemption certificate or other written evidence of exemption authorized by the appropriate  
220 state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use  
221 tax with respect to the transaction.

#### 222 Article VI

223 1. (a) The multistate tax commission is hereby established. It shall be composed of one  
224 "member" from each party state who shall be the head of the state agency charged with the  
225 administration of the types of taxes to which this compact applies. If there is more than one such  
226 agency the state shall provide by law for the selection of the commission member from the heads  
227 of the relevant agencies. State law may provide that a member of the commission be represented  
228 by an alternate but only if there is on file with the commission written notification of the

229 designation and identity of the alternate. The attorney general of each party state or his designee,  
230 or other counsel if the laws of the party state specifically provide, shall be entitled to attend the  
231 meetings of the commission, but shall not vote. Such attorneys general, designees, or other  
232 counsel shall receive all notices of meetings required under paragraph 1 (e) of this article.

233 (b) Each party state shall provide by law for the selection of representatives from its  
234 subdivisions affected by this compact to consult with the commission member from that state.

235 (c) Each member shall be entitled to one vote. The commission shall not act unless a  
236 majority of the members are present, and no action shall be binding unless approved by a  
237 majority of the total number of members.

238 (d) The commission shall adopt an official seal to be used as it may provide.

239 (e) The commission shall hold an annual meeting and such other regular meetings as its  
240 bylaws may provide and such special meetings as its executive committee may determine. The  
241 commission bylaws shall specify the dates of the annual and any other regular meetings, and  
242 shall provide for the giving of notice of annual, regular and special meetings. Notices of special  
243 meetings shall include the reasons therefor and an agenda of the items to be considered.

244 (f) The commission shall elect annually, from among its members, a chairman, a vice  
245 chairman and a treasurer. The commission shall appoint an executive director who shall serve  
246 at its pleasure, and it shall fix his duties and compensation. The executive director shall be  
247 secretary of the commission. The commission shall make provision for the bonding of such of  
248 its officers and employees as it may deem appropriate.

249 (g) Irrespective of the civil service, personnel or other merit system laws of any party  
250 state, the executive director shall appoint or discharge such personnel as may be necessary for  
251 the performance of the functions of the commission and shall fix their duties and compensation.  
252 The commission bylaws shall provide for personnel policies and programs.

253 (h) The commission may borrow, accept or contract for the services of personnel from  
254 any state, the United States, or any other governmental entity.

255 (i) The commission may accept for any of its purposes and functions any and all  
256 donations and grants of money, equipment, supplies, materials and services, conditional or  
257 otherwise, from any governmental entity, and may utilize and dispose of the same.

258 (j) The commission may establish one or more offices for the transacting of its business.

259 (k) The commission shall adopt bylaws for the conduct of its business. The commission  
260 shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any  
261 amendments thereto with the appropriate agency or officer in each of the party states.

262 (l) The commission annually shall make to the governor and legislature of each party  
263 state a report covering its activities for the preceding year. Any donation or grant accepted by  
264 the commission or services borrowed shall be reported in the annual report of the commission,

265 and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services  
266 borrowed and the identity of the donor or lender. The commission may make additional reports  
267 as it may deem desirable.

268 2. (a) To assist in the conduct of its business when the full commission is not meeting,  
269 the commission shall have an executive committee of seven members, including the chairman,  
270 vice chairman, treasurer and four other members elected annually by the commission. The  
271 executive committee, subject to the provisions of this compact and consistent with the policies  
272 of the commission, shall function as provided in the bylaws of the commission.

273 (b) The commission may establish advisory and technical committees, membership on  
274 which may include private persons and public officials, in furthering any of its activities. Such  
275 committees may consider any matter of concern to the commission, including problems of  
276 special interest to any party state and problems dealing with particular types of taxes.

277 (c) The commission may establish such additional committees as its bylaws may provide.

278 3. In addition to powers conferred elsewhere in this compact, the commission shall have  
279 power to:

280 (a) Study state and local tax systems and particular types of state and local taxes.

281 (b) Develop and recommend proposals for an increase in uniformity or compatibility of  
282 state and local tax laws with a view toward encouraging the simplification and improvement of  
283 state and local tax law and administration.

284 (c) Compile and publish information as in its judgment would assist the party states in  
285 implementation of the compact and taxpayers in complying with state and local tax laws.

286 (d) Do all things necessary and incidental to the administration of its functions pursuant  
287 to this compact.

288 4. (a) The commission shall submit to the governor or designated officer or officers of  
289 each party state a budget of its estimated expenditures for such period as may be required by the  
290 laws of that state for presentation to the legislature thereof.

291 (b) Each of the commission's budgets of estimated expenditures shall contain specific  
292 recommendations of the amounts to be appropriated by each of the party states. The total amount  
293 of appropriations requested under any such budget shall be apportioned among the party states  
294 as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue  
295 collected by each party state and its subdivisions from income taxes, capital stock taxes, gross  
296 receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ  
297 such available public sources of information as, in its judgment, present the most equitable and  
298 accurate comparisons among the party states. Each of the commission's budgets of estimated  
299 expenditures and requests for appropriations shall indicate the sources used in obtaining  
300 information employed in applying the formula contained in this paragraph.

301 (c) The commission shall not pledge the credit of any party state. The commission may  
302 meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of  
303 this article; provided that the commission takes specific action setting aside such funds prior to  
304 incurring any obligation to be met in whole or in part in such manner. Except where the  
305 commission makes use of funds available to it under paragraph 1 (i), the commission shall not  
306 incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

307 (d) The commission shall keep accurate accounts of all receipts and disbursements. The  
308 receipts and disbursements of the commission shall be subject to the audit and accounting  
309 procedures established under its bylaws. All receipts and disbursements of funds handled by the  
310 commission shall be audited yearly by a certified or licensed public accountant and the report of  
311 the audit shall be included in and become part of the annual report of the commission.

312 (e) The accounts of the commission shall be open at any reasonable time for inspection  
313 by duly constituted officers of the party states and by any persons authorized by the commission.

314 (f) Nothing contained in this article shall be construed to prevent commission  
315 compliance with laws relating to audit or inspection of accounts by or on behalf of any  
316 government contributing to the support of the commission.

#### 317 Article VII

318 1. Whenever any two or more party states, or subdivisions of party states, have uniform  
319 or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales  
320 or use tax, the commission may adopt uniform regulations for any phase of the administration  
321 of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The  
322 commission may also act with respect to the provisions of article IV of this compact.

323 2. Prior to the adoption of any regulation, the commission shall:

324 (a) As provided in its bylaws, hold at least one public hearing on due notice to all  
325 affected party states and subdivisions thereof and to all taxpayers and other persons who have  
326 made timely request of the commission for advance notice of its regulation-making proceedings.

327 (b) Afford all affected party states and subdivisions and interested persons an opportunity  
328 to submit relevant written data and views, which shall be considered fully by the commission.

329 3. The commission shall submit any regulations adopted by it to the appropriate officials  
330 of all party states and subdivisions to which they might apply. Each such state and subdivision  
331 shall consider any such regulation for adoption in accordance with its own laws and procedures.

#### 332 Article VIII

333 1. This article shall be in force only in those party states that specifically provide therefor  
334 by statute.

335 2. Any party state or subdivision thereof desiring to make or participate in an audit of  
336 any accounts, books, papers, records or other documents may request the commission to perform

337 the audit on its behalf. In responding to the request, the commission shall have access to and  
338 may examine, at any reasonable time, such accounts, books, papers, records, and other  
339 documents and any relevant property or stock of merchandise. The commission may enter into  
340 agreements with party states or their subdivisions for assistance in performance of the audit. The  
341 commission shall make charges, to be paid by the state or local government or governments for  
342 which it performs the service, for any audits performed by it in order to reimburse itself for the  
343 actual costs incurred in making the audit.

344 3. The commission may require the attendance of any person within the state where it  
345 is conducting an audit or part thereof at a time and place fixed by it within such state for the  
346 purpose of giving testimony with respect to any account, book, paper, document, other record,  
347 property or stock of merchandise being examined in connection with the audit. If the person is  
348 not within the jurisdiction, he may be required to attend for such purpose at any time and place  
349 fixed by the commission within the state of which he is a resident; provided that such state has  
350 adopted this article.

351 4. The commission may apply to any court having power to issue compulsory process  
352 for orders in aid of its powers and responsibilities pursuant to this article and any and all such  
353 courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order  
354 shall be punishable as contempt of the issuing court. If the party or subject matter on account  
355 of which the commission seeks an order is within the jurisdiction of the court to which  
356 application is made, such application may be to a court in the state or subdivision on behalf of  
357 which the audit is being made or a court in the state in which the object of the order being sought  
358 is situated. The provisions of this paragraph apply only to courts in a state that has adopted this  
359 article.

360 5. The commission may decline to perform any audit requested if it finds that its  
361 available personnel or other resources are insufficient for the purpose or that, in the terms  
362 requested, the audit is impracticable of satisfactory performance. If the commission, on the basis  
363 of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular  
364 time or on a particular schedule, would be of interest to a number of party states or their  
365 subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient  
366 participation therein as determined by the commission.

367 6. Information obtained by any audit pursuant to this article shall be confidential and  
368 available only for tax purposes to party states, their subdivisions or the United States.  
369 Availability of information shall be in accordance with the laws of the states or subdivisions on  
370 whose account the commission performs the audit, and only through the appropriate agencies or  
371 officers of such states or subdivisions. Nothing in this article shall be construed to require any  
372 taxpayer to keep records for any period not otherwise required by law.

373 7. Other arrangements made or authorized pursuant to law for cooperative audit by or  
374 on behalf of the party states or any of their subdivisions are not superseded or invalidated by this  
375 article.

376 8. In no event shall the commission make any charge against a taxpayer for an audit.

377 9. As used in this article, "tax" in addition to the meaning ascribed to it in article II,  
378 means any tax or license fee imposed in whole or in part for revenue purposes.

379

#### Article IX

380 1. Whenever the commission finds a need for settling disputes concerning  
381 apportionments and allocations by arbitration, it may adopt a regulation placing this article in  
382 effect, notwithstanding the provisions of article VII.

383 2. The commission shall select and maintain an arbitration panel composed of officers  
384 and employees of state and local governments and private persons who shall be knowledgeable  
385 and experienced in matters of tax law and administration.

386 3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of  
387 the party state or subdivision thereof are substantially identical with the relevant provisions of  
388 article IV, the taxpayer, by written notice to the commission and to each party state or  
389 subdivision thereof that would be affected, may secure arbitration of an apportionment or  
390 allocation, if he is dissatisfied with the final administrative determination of the tax agency of  
391 the state or subdivision with respect thereto on the ground that it would subject him to double  
392 or multiple taxation by two or more party states or subdivisions thereof. Each party state and  
393 subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound  
394 thereby.

395 4. The arbitration board shall be composed of one person selected by the taxpayer, one  
396 by the agency or agencies involved, and one member of the commission's arbitration panel. If  
397 the agencies involved are unable to agree on the person to be selected by them, such person shall  
398 be selected by lot from the total membership of the arbitration panel. The two persons selected  
399 for the board in the manner provided by the foregoing provisions of this paragraph shall jointly  
400 select the third member of the board. If they are unable to agree on the selection, the third  
401 member shall be selected by lot from among the total membership of the arbitration panel. No  
402 member of a board selected by lot shall be qualified to serve if he is an officer or employee or  
403 is otherwise affiliated with any party to the arbitration proceeding. Residence within the  
404 jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the  
405 meaning of this paragraph.

406 5. The board may sit in any state or subdivision party to the proceeding, in the state of  
407 the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business,

408 or in any place that it finds most appropriate for gaining access to evidence relevant to the matter  
409 before it.

410           6. The board shall give due notice of the times and places of its hearings. The parties  
411 shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses.  
412 The board shall act by majority vote.

413           7. The board shall have power to administer oaths, take testimony, subpoena and require  
414 the attendance of witnesses and the production of accounts, books, papers, records, and other  
415 documents, and issue commissions to take testimony. Subpoenas may be signed by any member  
416 of the board. In case of failure to obey a subpoena, and upon application by the board, any judge  
417 of a court of competent jurisdiction of the state in which the board is sitting or in which the  
418 person to whom the subpoena is directed may be found may make an order requiring compliance  
419 with the subpoena, and the court may punish failure to obey the order as a contempt. The  
420 provisions of this paragraph apply only in states that have adopted this article.

421           8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall  
422 be assessed and allocated among the parties by the board in such manner as it may determine.  
423 The commission shall fix a schedule of compensation for members of arbitration boards and of  
424 other allowable expenses and costs. No officer or employee of a state or local government who  
425 serves as a member of a board shall be entitled to compensation therefor unless he is required  
426 on account of his service to forego the regular compensation attaching to his public employment,  
427 but any such board member shall be entitled to expenses.

428           9. The board shall determine the disputed apportionment or allocation and any matters  
429 necessary thereto. The determinations of the board shall be final for purposes of making the  
430 apportionment or allocation, but for no other purpose.

431           10. The board shall file with the commission and with each tax agency represented in  
432 the proceeding: the determination of the board; the board's written statement of its reasons  
433 therefor; the record of the board's proceedings; and any other documents required by the  
434 arbitration rules of the commission to be filed.

435           11. The commission shall publish the determinations of boards together with the  
436 statements of the reasons therefor.

437           12. The commission shall adopt and publish rules of procedure and practice and shall  
438 file a copy of such rules and of any amendment thereto with the appropriate agency or officer in  
439 each of the party states.

440           13. Nothing contained herein shall prevent at any time a written compromise of any  
441 matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

442

Article X

443 1. This compact shall enter into force when enacted into law by any seven states.  
 444 Thereafter, this compact shall become effective as to any other state upon its enactment thereof.  
 445 The commission shall arrange for notification of all party states whenever there is a new  
 446 enactment of the compact.

447 2. Any party state may withdraw from this compact by enacting a statute repealing the  
 448 same. No withdrawal shall affect any liability already incurred by or chargeable to a party state  
 449 prior to the time of such withdrawal.

450 3. No proceeding commenced before an arbitration board prior to the withdrawal of a  
 451 state and to which the withdrawing state or any subdivision thereof is a party shall be  
 452 discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over  
 453 any of the parties to the proceeding necessary to make a binding determination therein.

#### 454 Article XI

455 Nothing in this compact shall be construed to:

456 (a) Affect the power of any state or subdivision thereof to fix rates of taxation, except  
 457 that a party state shall be obligated to implement article III 2 of this compact.

458 (b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any  
 459 tax on motor fuel, other than a sales tax; provided that the definition of "tax" in article VIII 9 may  
 460 apply for the purposes of that article and the commission's powers of study and recommendation  
 461 pursuant to article VI 3 may apply.

462 (c) Withdraw or limit the jurisdiction of any state or local court or administrative officer  
 463 or body with respect to any person, corporation or other entity or subject matter, except to the  
 464 extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another  
 465 agency or body.

466 (d) Supersede or limit the jurisdiction of any court of the United States.

#### 467 Article XII

468 This compact shall be liberally construed so as to effectuate the purposes thereof. The  
 469 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of  
 470 this compact is declared to be contrary to the constitution of any state or of the United States or  
 471 the applicability thereof to any government, agency, person or circumstance is held invalid, the  
 472 validity of the remainder of this compact and the applicability thereof to any government, agency,  
 473 person or circumstance shall not be affected thereby. If this compact shall be held contrary to  
 474 the constitution of any state participating therein, the compact shall remain in full force and  
 475 effect as to the remaining party states and in full force and effect as to the state affected as to all  
 476 severable matters.

143.011. 1. **(1) For tax years ending before January 1, 2019**, a tax is hereby imposed  
 2 for every [taxable] tax year on the on the Missouri taxable income of every resident. The tax

3 shall be determined by applying the tax table or the rate provided in section 143.021, which is  
 4 based upon the following rates:

5 If the Missouri taxable income is:	The tax is:
6 Not over \$1,000.00	1 ½% of the Missouri taxable income
7 Over \$1,000 but not over \$2,000	\$15 plus 2% of excess over \$1,000
8 Over \$2,000 but not over \$3,000	\$35 plus 2 ½% of excess over \$2,000
9 Over \$3,000 but not over \$4,000	\$60 plus 3% of excess over \$3,000
10 Over \$4,000 but not over \$5,000	\$90 plus 3 ½% of excess over \$4,000
11 Over \$5,000 but not over \$6,000	\$125 plus 4% of excess over \$5,000
12 Over \$6,000 but not over \$7,000	\$165 plus 4 ½% of excess over \$6,000
13 Over \$7,000 but not over \$8,000	\$210 plus 5% of excess over \$7,000
14 Over \$8,000 but not over \$9,000	\$260 plus 5 ½% of excess over \$8,000
15 Over \$9,000	\$315 plus 6% of excess over \$9,000

16 **(2) For all tax years beginning on or after January 1, 2019, a tax is hereby imposed**  
 17 **for every tax year on the Missouri taxable income of every resident. The tax shall be**  
 18 **determined by applying the tax table or the rate provided in section 143.021, which is**  
 19 **based upon the following rates:**

20 If the Missouri taxable income is:	The tax is:
21 <b>Not over \$1,000</b>	<b>3 ½% of the Missouri taxable income</b>
22 <b>Over \$1,000 but not over \$2,000</b>	<b>\$35 plus 4% of excess over \$1,000</b>
23 <b>Over \$2,000 but not over \$3,000</b>	<b>\$75 plus 4 ½% of excess over \$2,000</b>
24 <b>Over \$3,000 but not over \$4,000</b>	<b>\$120 plus 5% of excess over \$3,000</b>
25 <b>Over \$4,000</b>	<b>\$170 plus 5.5% of excess over \$4,000</b>

26 2. (1) Beginning with the 2017 calendar year, the top rate of tax under subsection 1 of  
 27 this section may be reduced over a period of years. Each reduction in the top rate of tax shall be  
 28 by one-tenth of a percent and no more than one reduction shall occur in a calendar year. The top  
 29 rate of tax shall not be reduced below five ~~and one-half~~ percent. Reductions in the rate of tax  
 30 shall take effect on January first of a calendar year and such reduced rates shall continue in effect  
 31 until the next reduction occurs.

32 (2) A reduction in the rate of tax shall only occur if the amount of net general revenue  
 33 collected in the previous fiscal year exceeds the highest amount of net general revenue collected  
 34 in any of the three fiscal years prior to such fiscal year by at least one hundred fifty million  
 35 dollars.

36 (3) Any modification of tax rates under this subsection shall only apply to tax years that  
 37 begin on or after a modification takes effect.

38 (4) The director of the department of revenue shall, by rule, adjust the tax tables under  
39 subsection 1 of this section to effectuate the provisions of this subsection. The bracket for  
40 income subject to the top rate of tax shall be eliminated once the top rate of tax has been reduced  
41 to five ~~[and one-half of a]~~ percent, **and the top remaining rate of tax shall apply to all income**  
42 **in excess of the income in the second highest remaining income bracket.**

43 3. Beginning with the 2017 calendar year, the brackets of Missouri taxable income  
44 identified in subsection 1 of this section shall be adjusted annually by the percent increase in  
45 inflation. The director shall publish such brackets annually beginning on or after October 1,  
46 2016. Modifications to the brackets shall take effect on January first of each calendar year and  
47 shall apply to tax years beginning on or after the effective date of the new brackets.

48 4. As used in this section, the following terms mean:

49 (1) "CPI", the Consumer Price Index for All Urban Consumers for the United States as  
50 reported by the Bureau of Labor Statistics, or its successor index;

51 (2) "CPI for the preceding calendar year", the average of the CPI as of the close of the  
52 twelve month period ending on August thirty-first of such calendar year;

53 (3) "**Net general revenue collected**", **all revenue deposited into the general revenue**  
54 **fund, less refunds and revenues originally deposited into the general revenue fund but**  
55 **designated by law for a specific distribution or transfer to another state fund;**

56 (4) "Percent increase in inflation", the percentage, if any, by which the CPI for the  
57 preceding calendar year exceeds the CPI for the year beginning September 1, 2014, and ending  
58 August 31, 2015.

143.022. 1. As used in this section, "business income" means the income greater than  
2 zero arising from transactions in the regular course of all of a taxpayer's trade or business and  
3 shall be limited to the Missouri source net profit from the combination of the following:

4 (1) The total combined profit as properly reported to the Internal Revenue Service on  
5 each Schedule C, or its successor form, filed; and

6 (2) The total partnership and S corporation income or loss properly reported to the  
7 Internal Revenue Service on Part II of Schedule E, or its successor form.

8 2. In addition to all other modifications allowed by law, there shall be subtracted from  
9 the federal adjusted gross income of an individual taxpayer a percentage of such individual's  
10 business income, to the extent that such amounts are included in federal adjusted gross income  
11 when determining such individual's Missouri adjusted gross income.

12 3. In the case of an S corporation described in section 143.471 or a partnership  
13 computing the deduction allowed under subsection 2 of this section, taxpayers described in  
14 subdivision (1) or (2) of this subsection shall be allowed such deduction apportioned in  
15 proportion to their share of ownership of the business as reported on the taxpayer's Schedule K-1,

16 or its successor form, for the tax period for which such deduction is being claimed when  
17 determining the Missouri adjusted gross income of:

18 (1) The shareholders of an S corporation as described in section 143.471;

19 (2) The partners in a partnership.

20 4. The percentage to be subtracted under subsection 2 of this section shall be increased  
21 ~~[over a period of years. Each increase in the percentage shall be]~~ by five percent ~~[and no more~~  
22 ~~than one increase shall occur]~~ in ~~[a]~~ calendar year~~]. The maximum percentage that may be~~  
23 ~~subtracted is twenty-five percent of business income. Any increase in the percentage that may~~  
24 ~~be subtracted shall take effect on January first of a calendar year] 2018, and such percentage shall~~  
25 ~~continue in effect [until the next percentage increase occurs. An increase shall only apply to tax~~  
26 ~~years that begin on or after the increase takes effect.~~

27 ~~——— 5. An increase in the percentage that may be subtracted under subsection 2 of this section~~  
28 ~~shall only occur if the amount of net general revenue collected in the previous fiscal year exceeds~~  
29 ~~the highest amount of net general revenue collected in any of the three fiscal years prior to such~~  
30 ~~fiscal year by at least one hundred fifty million dollars.~~

31 ~~——— 6. The first year that a taxpayer may make the subtraction under subsection 2 of this~~  
32 ~~section is 2017, provided that the provisions of subsection 5 of this section are met. If the~~  
33 ~~provisions of subsection 5 of this section are met, the percentage that may be subtracted in 2017~~  
34 ~~is five percent.] for successive calendar years.~~

143.071. 1. For all tax years beginning before September 1, 1993, a tax is hereby  
2 imposed upon the Missouri taxable income of corporations in an amount equal to five percent  
3 of Missouri taxable income.

4 2. For all tax years beginning on or after September 1, 1993, **and ending on or before**  
5 **December 31, 2018**, a tax is hereby imposed upon the Missouri taxable income of corporations  
6 in an amount equal to six and one-fourth percent of Missouri taxable income.

7 3. **For all tax years beginning on or after January 1, 2019, a tax is hereby imposed**  
8 **upon the Missouri taxable income of corporations in an amount equal to five and one-half**  
9 **percent of Missouri taxable income.**

10 4. The provisions of this section shall not apply to out-of-state businesses operating  
11 under sections 190.270 to 190.285.

12 5. **(1) Beginning with the 2018 calendar year, the rate of tax under subsection 3 of**  
13 **this section may be reduced over a period of years. Each reduction in the rate of tax shall**  
14 **be by one-tenth of a percent and no more than one reduction shall occur in a calendar year.**  
15 **The rate of tax shall not be reduced below five percent. Reductions in the rate of tax shall**  
16 **take effect on January first of a calendar year and such reduced rates shall continue in**  
17 **effect until the next reduction occurs.**

18           **(2) A reduction in the rate of tax shall only occur if the amount of net general**  
19 **revenue collected in the previous fiscal year exceeds the highest amount of net general**  
20 **revenue collected in any of the three fiscal years prior to such fiscal year by at least one**  
21 **hundred fifty million dollars.**

22           **(3) Any modification of tax rates under this subsection shall only apply to tax years**  
23 **that begin on or after a modification takes effect.**

143.151. For all ~~[taxable]~~ tax years beginning before January 1, 1999, a resident shall  
2 be allowed a deduction of one thousand two hundred dollars for himself or herself and one  
3 thousand two hundred dollars for his or her spouse if he or she is entitled to a deduction for such  
4 personal exemptions for federal income tax purposes. For all ~~[taxable]~~ tax years beginning on  
5 or after January 1, 1999, **and ending before January 1, 2018**, a resident shall be allowed a  
6 deduction of two thousand one hundred dollars for himself or herself and two thousand one  
7 hundred dollars for his or her spouse if he or she is entitled to a deduction for such personal  
8 exemptions for federal income tax purposes. For ~~[all tax years beginning on or after January 1,]~~  
9 **the 2017 tax year**, a resident with a Missouri adjusted gross income of less than twenty thousand  
10 dollars shall be allowed an additional deduction of five hundred dollars for himself or herself and  
11 an additional five hundred dollars for his or her spouse if he or she is entitled to a deduction for  
12 such personal exemptions for federal income tax purposes and his or her spouse's Missouri  
13 adjusted gross income is less than twenty thousand dollars.

143.161. 1. For all ~~[taxable]~~ tax years beginning after December 31, 1997, **and ending**  
2 **before January 1, 2018**, a resident may deduct one thousand two hundred dollars for each  
3 dependent for whom such resident is entitled to a dependency exemption deduction for federal  
4 income tax purposes. In the case of a dependent who has attained sixty-five years of age on or  
5 before the last day of the ~~[taxable]~~ tax year, if such dependent resides in the taxpayer's home or  
6 the dependent's own home or if such dependent does not receive Medicaid or state funding while  
7 residing in a facility licensed pursuant to chapter 198, the taxpayer may deduct an additional one  
8 thousand dollars.

9           2. For all ~~[taxable]~~ tax years beginning on or after January 1, 1999, **and ending before**  
10 **January 1, 2018**, a resident who qualifies as an unmarried head of household or as a surviving  
11 spouse for federal income tax purposes may deduct an additional one thousand four hundred  
12 dollars.

13           3. For all ~~[taxable]~~ tax years beginning on or after January 1, 2015, **and ending before**  
14 **January 1, 2018**, for each birth for which a certificate of birth resulting in stillbirth has been  
15 issued under section 193.165, a taxpayer may claim the exemption under subsection 1 of this  
16 section only in the taxable year in which the stillbirth occurred, if the child otherwise would have  
17 been a member of the taxpayer's household.

143.431. 1. The Missouri taxable income of a corporation taxable under sections 2 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the 3 modifications specified in subsections 2 to 4 of this section, as is derived from sources within 4 Missouri as provided in section 143.451. The tax of a corporation shall be computed on its 5 Missouri taxable income at the rates provided in section 143.071.

6 2. There shall be added to or subtracted from federal taxable income the modifications 7 to adjusted gross income provided in section 143.121, with the exception of subdivision (5) of 8 subsection 2 of section 143.121, and the applicable modifications to itemized deductions 9 provided in section 143.141. There shall be subtracted the federal income tax deduction 10 provided in section 143.171. There shall be subtracted, to the extent included in federal taxable 11 income, corporate dividends from sources within Missouri.

12 3. (1) If an affiliated group of corporations files a consolidated income tax return for the 13 taxable year for federal income tax purposes ~~[and fifty percent or more of its income is derived~~ 14 ~~from sources within this state as determined in accordance with section 143.451]~~, then it may 15 elect to file a Missouri consolidated income tax return. The federal consolidated taxable income 16 of the electing affiliated group for the taxable year shall be its federal taxable income. **All** 17 **transactions between affiliated members of the affiliated group shall be eliminated on the** 18 **Missouri consolidated income tax return.**

19 (2) So long as a federal consolidated income tax return is filed, an election made by an 20 affiliated group of corporations to file a Missouri consolidated income tax return may be 21 withdrawn or revoked only upon substantial change in the law or regulations adversely changing 22 tax liability under this chapter, or with permission of the director of revenue upon the showing 23 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated 24 group, it may not file a Missouri consolidated income tax return for five years thereafter, except 25 with the approval of the director of revenue, and subject to such terms and conditions as he may 26 prescribe.

27 (3) No corporation which is part of an affiliated group of corporations filing a Missouri 28 consolidated income tax return shall be required to file a separate Missouri corporate income tax 29 return for the taxable year.

30 (4) For each taxable year an affiliated group of corporations filing a federal consolidated 31 income tax return does not file a Missouri consolidated income tax return, for purposes of 32 computing the Missouri income tax, the federal taxable income of each member of the affiliated 33 group shall be determined as if a separate federal income tax return had been filed by each such 34 member.

35 (5) The director of revenue may prescribe such regulations not inconsistent with the 36 provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated

37 group of corporations making a Missouri consolidated income tax return, and of each corporation  
38 in the group, before, during, and after the period of affiliation, may be returned, determined,  
39 computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri  
40 taxable income derived from sources within this state and in order to prevent avoidance of such  
41 tax liability.

42 4. If a net operating loss deduction is allowed for the taxable year, there shall be added  
43 to federal taxable income the amount of the net operating loss modification for each loss year  
44 as to which a portion of the net operating loss deduction is attributable. As used in this  
45 subsection, the following terms mean:

46 (1) "Loss year", the taxable year in which there occurs a federal net operating loss that  
47 is carried back or carried forward in whole or in part to another taxable year;

48 (2) "Net addition modification", for any taxable year, the amount by which the sum of  
49 all required additions to federal taxable income provided in this chapter, except for the net  
50 operating loss modification, exceeds the combined sum of the amount of all required subtractions  
51 from federal taxable income provided in this chapter;

52 (3) "Net operating loss deduction", a net operating loss deduction allowed for federal  
53 income tax purposes under Section 172 of the Internal Revenue Code of 1986, as amended, or  
54 a net operating loss deduction allowed for Missouri income tax purposes under paragraph (d) of  
55 subsection 2 of section 143.121, but not including any net operating loss deduction that is  
56 allowed for federal income tax purposes but disallowed for Missouri income tax purposes under  
57 paragraph (d) of subsection 2 of section 143.121;

58 (4) "Net operating loss modification", an amount equal to the lesser of the amount of the  
59 net operating loss deduction attributable to that loss year or the amount by which the total net  
60 operating loss in the loss year is less than the sum of:

61 (a) The net addition modification for that loss year; and

62 (b) The cumulative net operating loss deductions attributable to that loss year allowed  
63 for the taxable year and all prior taxable years.

64 5. For all tax years ending on or after July 1, 2002, federal taxable income may be a  
65 positive or negative amount. Subsection 4 of this section shall be effective for all tax years with  
66 a net operating loss deduction attributable to a loss year ending on or after July 1, 2002, and the  
67 net operating loss modification shall only apply to loss years ending on or after July 1, 2002.

143.451. 1. Missouri taxable income of a corporation shall include all income derived  
2 from sources within this state.

3 2. **For all tax years beginning before January 1, 2019**, a corporation described in  
4 subdivision (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income  
5 all income from sources within this state, including that from the transaction of business in this

6 state and that from the transaction of business partly done in this state and partly done in another  
7 state or states. However:

8 (1) Where income results from a transaction partially in this state and partially in another  
9 state or states, and income and deductions of the portion in the state cannot be segregated, then  
10 such portions of income and deductions shall be allocated in this state and the other state or  
11 states as will distribute to this state a portion based upon the portion of the transaction in this  
12 state and the portion in such other state or states.

13 (2) The taxpayer may elect to compute the portion of income from all sources in this  
14 state in the following manner, or the manner set forth in subdivision (3) of this subsection:

15 (a) The income from all sources shall be determined as provided, excluding therefrom  
16 the figures for the operation of any bridge connecting this state with another state.

17 (b) The amount of sales which are transactions wholly in this state shall be added to  
18 one-half of the amount of sales which are transactions partly within this state and partly without  
19 this state, and the amount thus obtained shall be divided by the total sales or in cases where sales  
20 do not express the volume of business, the amount of business transacted wholly in this state  
21 shall be added to one-half of the amount of business transacted partly in this state and partly  
22 outside this state and the amount thus obtained shall be divided by the total amount of business  
23 transacted, and the net income shall be multiplied by the fraction thus obtained, to determine the  
24 proportion of income to be used to arrive at the amount of Missouri taxable income. The  
25 investment or reinvestment of its own funds, or sale of any such investment or reinvestment,  
26 shall not be considered as sales or other business transacted for the determination of said  
27 fraction.

28 (c) For the purposes of this subdivision, a transaction involving the sale of tangible  
29 property is:

30 a. "Wholly in this state" if both the seller's shipping point and the purchaser's destination  
31 point are in this state;

32 b. "Partly within this state and partly without this state" if the seller's shipping point is  
33 in this state and the purchaser's destination point is outside this state, or the seller's shipping point  
34 is outside this state and the purchaser's destination point is in this state;

35 c. Not "wholly in this state" or not "partly within this state and partly without this state"  
36 only if both the seller's shipping point and the purchaser's destination point are outside this state.

37 (d) For purposes of this subdivision:

38 a. The purchaser's destination point shall be determined without regard to the FOB point  
39 or other conditions of the sale; and

40 b. The seller's shipping point is determined without regard to the location of the seller's  
41 principle office or place of business.

42 (3) The taxpayer may elect to compute the portion of income from all sources in this  
43 state in the following manner:

44 (a) The income from all sources shall be determined as provided, excluding therefrom  
45 the figures for the operation of any bridge connecting this state with another state;

46 (b) The amount of sales which are transactions in this state shall be divided by the total  
47 sales, and the net income shall be multiplied by the fraction thus obtained, to determine the  
48 proportion of income to be used to arrive at the amount of Missouri taxable income. The  
49 investment or reinvestment of its own funds, or sale of any such investment or reinvestment,  
50 shall not be considered as sales or other business transacted for the determination of said  
51 fraction;

52 (c) For the purposes of this subdivision, a transaction involving the sale of tangible  
53 property is:

54 a. "In this state" if the purchaser's destination point is in this state;

55 b. Not "in this state" if the purchaser's destination point is outside this state;

56 (d) For purposes of this subdivision, the purchaser's destination point shall be determined  
57 without regard to the FOB point or other conditions of the sale and shall not be in this state if the  
58 purchaser received the tangible personal property from the seller in this state for delivery to the  
59 purchaser's location outside this state;

60 (e) For the purposes of this subdivision, a transaction involving the sale other than the  
61 sale of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The  
62 taxpayer's market for sales is in this state:

63 a. In the case of sale, rental, lease, or license of real property, if and to the extent the  
64 property is located in this state;

65 b. In the case of rental, lease, or license of tangible personal property, if and to the extent  
66 the property is located in this state;

67 c. In the case of sale of a service, if and to the extent the ultimate beneficiary of the  
68 service is located in this state and shall not be in this state if the ultimate beneficiary of the  
69 service rendered by the taxpayer or the taxpayer's designee is located outside this state; and

70 d. In the case of intangible property:

71 (i) That is rented, leased, or licensed, if and to the extent the property is used in this state  
72 by the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good  
73 or service to a consumer is "used in this state" if that good or service is purchased by a consumer  
74 who is in this state. Franchise fees or royalties received for the rent, lease, license, or use of a  
75 trade name, trademark, service mark, or franchise system or provides a right to conduct business  
76 activity in a specific geographic area are "used in this state" to the extent the franchise location  
77 is in this state; and

78 (ii) That is sold, if and to the extent the property is used in this state, provided that:

79 i. A contract right, government license, or similar intangible property that authorizes the  
80 holder to conduct a business activity in a specific geographic area is "used in this state" if the  
81 geographic area includes all or part of this state;

82 ii. Receipts from intangible property sales that are contingent on the productivity, use,  
83 or disposition of the intangible property shall be treated as receipts from the rental, lease, or  
84 licensing of such intangible property under item (i) of this subparagraph; and

85 iii. All other receipts from a sales of intangible property shall be excluded from the  
86 numerator and denominator of the sales factor;

87 (f) If the state or states of assignment under paragraph (e) of this subdivision cannot be  
88 determined, the state or states of assignment shall be reasonably approximated;

89 (g) If the state of assignment cannot be determined under paragraph (e) of this  
90 subdivision or reasonably approximated under paragraph (f) of this subdivision, such sales shall  
91 be excluded from the denominator of the sales factor;

92 (h) The director may prescribe such rules and regulations as necessary or appropriate to  
93 carry out the purposes of this section.

94 (4) For purposes of this subsection, the following words shall, unless the context  
95 otherwise requires, have the following meaning:

96 (a) "Administration services" include, but are not limited to, clerical, fund or shareholder  
97 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,  
98 internal auditing, legal and tax services performed for an investment company;

99 (b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be  
100 amended from time to time;

101 (c) "Distribution services" include, but are not limited to, the services of advertising,  
102 servicing, marketing, underwriting or selling shares of an investment company, but, in the case  
103 of advertising, servicing or marketing shares, only where such service is performed by a person  
104 who is, or in the case of a closed end company, was, either engaged in the services of  
105 underwriting or selling investment company shares or affiliated with a person that is engaged in  
106 the service of underwriting or selling investment company shares. In the case of an open end  
107 company, such service of underwriting or selling shares must be performed pursuant to a contract  
108 entered into pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

109 (d) "Investment company", any person registered under the federal Investment Company  
110 Act of 1940, as amended from time to time, (the act) or a company which would be required to  
111 register as an investment company under the act except that such person is exempt to such  
112 registration pursuant to Section 80a-3(c)(1) of the act;

113 (e) "Investment funds service corporation" includes any corporation or S corporation  
114 doing business in the state which derives more than fifty percent of its gross income in the  
115 ordinary course of business from the provision directly or indirectly of management, distribution  
116 or administration services to or on behalf of an investment company or from trustees, sponsors  
117 and participants of employee benefit plans which have accounts in an investment company. An  
118 investment funds service corporation shall include any corporation or S corporation providing  
119 management services as an investment advisory firm registered under Section 203 of the  
120 Investment Advisors Act of 1940, as amended from time to time, regardless of the percentage  
121 of gross revenues consisting of fees from management services provided to or on behalf of an  
122 investment company;

123 (f) "Management services" include but are not limited to, the rendering of investment  
124 advice directly or indirectly to an investment company making determinations as to when sales  
125 and purchases of securities are to be made on behalf of the investment company, or the selling  
126 or purchasing of securities constituting assets of an investment company, and related activities,  
127 but only where such activity or activities are performed:

128 a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C.  
129 Section 80a-15(a), as from time to time amended;

130 b. For a person that has entered into such contract with the investment company; or

131 c. For a person that is affiliated with a person that has entered into such contract with an  
132 investment company;

133 (g) "Qualifying sales", gross income derived from the provision directly or indirectly of  
134 management, distribution or administration services to or on behalf of an investment company  
135 or from trustees, sponsors and participants of employee benefit plans which have accounts in an  
136 investment company. For purposes of this section, "gross income" is defined as that amount of  
137 income earned from qualifying sources without deduction of expenses related to the generation  
138 of such income;

139 (h) "Residence", presumptively the fund shareholder's mailing address on the records of  
140 the investment company. If, however, the investment company or the investment funds service  
141 corporation has actual knowledge that the fund shareholder's primary residence or principal place  
142 of business is different than the fund shareholder's mailing address such presumption shall not  
143 control. To the extent an investment funds service corporation does not have access to the  
144 records of the investment company, the investment funds service corporation may employ  
145 reasonable methods to determine the investment company fund shareholder's residence.

146 (5) Notwithstanding other provisions of law to the contrary, qualifying sales of an  
147 investment funds service corporation, or S corporation, shall be considered wholly in this state  
148 only to the extent that the fund shareholders of the investment companies, to which the

149 investment funds service corporation, or S corporation, provide services, are resided in this  
150 state. Wholly in this state qualifying sales of an investment funds service corporation, or S  
151 corporation, shall be determined as follows:

152 (a) By multiplying the investment funds service corporation's total dollar amount of  
153 qualifying sales from services provided to each investment company by a fraction, the numerator  
154 of which shall be the average of the number of shares owned by the investment company's fund  
155 shareholders resided in this state at the beginning of and at the end of the investment  
156 company's taxable year that ends with or within the investment funds service corporation's  
157 taxable year, and the denominator of which shall be the average of the number of shares owned  
158 by the investment company's fund shareholders everywhere at the beginning of and at the end  
159 of the investment company's taxable year that ends with or within the investment funds service  
160 corporation's taxable year;

161 (b) A separate computation shall be made to determine the wholly in this state qualifying  
162 sales from each investment company. The qualifying sales for each investment company shall  
163 be multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a)  
164 of this subdivision. The product of this equation shall result in the wholly in this state qualifying  
165 sales. The qualifying sales for each investment company which are not wholly in this state will  
166 be considered wholly without this state;

167 (c) To the extent an investment funds service corporation has sales which are not  
168 qualifying sales, those nonqualified sales shall be apportioned to this state based on the  
169 methodology utilized by the investment funds service corporation without regard to this  
170 subdivision.

171 3. Any corporation described in subdivision (1) of subsection 1 of section 143.441  
172 organized in this state or granted a permit to operate in this state for the transportation or care  
173 of passengers shall report its gross earnings within the state on intrastate business and shall also  
174 report its gross earnings on all interstate business done in this state which report shall be subject  
175 to inquiry for the purpose of determining the amount of income to be included in Missouri  
176 taxable income. The previous sentence shall not apply to a railroad.

177 4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall  
178 include in its Missouri taxable income all income arising from all sources in this state and all  
179 income from each transportation service wholly within this state, from each service where the  
180 only lines of such corporation used are those in this state, and such proportion of revenue from  
181 each service where the facilities of such corporation in this state and in another state or states are  
182 used, as the mileage used over the lines of such corporation in the state shall bear to the total  
183 mileage used over the lines of such corporation. The taxpayer may elect to compute the portion  
184 of income from all sources within this state in the following manner:

185 (1) The income from all sources shall be determined as provided;

186 (2) The amount of investment of such corporation on December thirty-first of each year  
187 in this state in fixed transportation facilities, real estate and improvements, plus the value on  
188 December thirty-first of each year of any fixed transportation facilities, real estate and  
189 improvements in this state leased from any other railroad shall be divided by the sum of the total  
190 amount of investment of such corporation on December thirty-first of each year in fixed  
191 transportation facilities, real estate and improvements, plus the value on December thirty-first  
192 of each year, of any fixed transportation facilities, real estate and improvements leased from any  
193 other railroad. Where any fixed transportation facilities, real estate or improvements are leased  
194 by more than one railroad, such portion of the value shall be used by each railroad as the rental  
195 paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the  
196 fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri  
197 taxable income.

198 5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall  
199 include in its Missouri taxable income one-half of the net income from the operation of a bridge  
200 between this and another state. If any such bridge is owned or operated by a railroad corporation  
201 or corporations, or by a corporation owning a railroad corporation using such bridge, then the  
202 figures for operation of such bridge may be included in the return of such railroad or railroads;  
203 or if such bridge is owned or operated by any other corporation which may now or hereafter be  
204 required to file an income tax return, one-half of the income or loss to such corporation from  
205 such bridge may be included in such return by adding or subtracting same to or from another net  
206 income or loss shown by the return.

207 6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall  
208 include in its Missouri taxable income all income arising from all sources within this state.  
209 Income shall include revenue from each telephonic or telegraphic service rendered wholly within  
210 this state; from each service rendered for which the only facilities of such corporation used are  
211 those in this state; and from each service rendered over the facilities of such corporation in this  
212 state and in other state or states, such proportion of such revenue as the mileage involved in this  
213 state shall bear to the total mileage involved over the lines of said company in all states. The  
214 taxpayer may elect to compute the portion of income from all sources within this state in the  
215 following manner:

216 (1) The income from all sources shall be determined as provided;

217 (2) The amount of investment of such corporation on December thirty-first of each year  
218 in this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be  
219 divided by the amount of the total investment of such corporation on December thirty-first of  
220 each year in telephonic or telegraphic facilities, real estate and improvements. The income of

221 the taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used  
222 to arrive at the amount of Missouri taxable income.

223 7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from  
224 all sources within this state shall be deducted such of the deductions for expenses in determining  
225 Missouri taxable income as were incurred in this state to produce such income and all losses  
226 actually sustained in this state in the business of the corporation.

227 8. If a corporation derives only part of its income from sources within Missouri, its  
228 Missouri taxable income shall only reflect the effect of the following listed deductions to the  
229 extent applicable to Missouri. The deductions are: (a) its deduction for federal income taxes  
230 pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for  
231 net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable  
232 to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri  
233 taxable income by the ratio for the year of the Missouri taxable income of the corporation for the  
234 year divided by the Missouri taxable income for the year as though the corporation had derived  
235 all of its income from sources within Missouri. For the purpose of the preceding sentence,  
236 Missouri taxable income shall not reflect the listed deductions.

237 9. Any investment funds service corporation organized as a corporation or S corporation  
238 which has any shareholders resided in this state shall be subject to Missouri income tax as  
239 provided in this chapter.

240 10. The provisions of this section do not impact any other apportionment election  
241 available to a taxpayer under Missouri statutes.

**143.455. 1. Missouri taxable income of a corporation shall include all income  
2 derived from sources within this state.**

**3 2. For all tax years beginning on or after January 1, 2019, any corporation having  
4 income from business activity which is taxable both within and without this state shall  
5 allocate and apportion its net income as provided in this section.**

**6 3. As used in this section, unless the context otherwise requires, the following terms  
7 mean:**

**8 (1) "Apportionable income":**

**9 (a) All income that is apportionable under the Constitution of the United States and  
10 is not allocated under the laws of this state, including:**

**11 a. Income arising from transactions and activity in the regular course of the  
12 corporation's trade or business; and**

**13 b. Income arising from tangible and intangible property if the acquisition,  
14 management, employment, development, or disposition of the property is or was related  
15 to the operation of the corporation's trade or business; and**

16           **(b) Any income that would be allocable to this state under the Constitution of the**  
17 **United States but that is apportioned rather than allocated pursuant to the laws of this**  
18 **state;**

19           **(2) "Commercial domicile", the principal place from which the trade or business**  
20 **of the corporation is directed or managed;**

21           **(3) "Financial organization", any bank, bank holding company, financial services**  
22 **holding company, trust company, savings bank, industrial bank, land bank, safe deposit**  
23 **company, private banker, savings and loan association, credit union, cooperative bank,**  
24 **small loan company, sales finance company, investment company, or any type of insurance**  
25 **company;**

26           **(4) "Non-apportionable income", all income other than apportionable income;**

27           **(5) "Public utility", any business entity:**

28           **(a) Which owns or operates any plant, equipment, property, franchise, or license**  
29 **for the transmission of communications, transportation of goods or persons, except by**  
30 **pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water**  
31 **or steam; and**

32           **(b) Whose rates of charges for goods or services have been established or approved**  
33 **by a federal, state, or local government or governmental agency;**

34           **(6) "Receipts", all gross receipts of the corporation that are not allocated under the**  
35 **provisions of this section, and that are received from transactions and activity in the**  
36 **regular course of the corporation's trade or business; except that receipts of a corporation,**  
37 **other than a corporation defined as a financial organization or a corporation owned more**  
38 **than fifty percent by a financial organization, from hedging transactions and from the**  
39 **maturity, redemption, sale, exchange, loan or other disposition of cash or securities, shall**  
40 **be excluded.**

41           **4. For purposes of allocation and apportionment of income under this section, a**  
42 **corporation is taxable in another state if:**

43           **(1) In that state it is subject to a net income tax, a franchise tax measured by net**  
44 **income, a franchise tax for the privilege of doing business, or a corporate stock tax; or**

45           **(2) That state has jurisdiction to subject the corporation to a net income tax**  
46 **regardless of whether, in fact, the state does or does not do so.**

47           **5. Rents and royalties from real or tangible personal property, capital gains,**  
48 **interest, dividends or patent or copyright royalties, to the extent that they constitute**  
49 **nonapportionable income, shall be allocated as provided in subsections 6 to 9 of this**  
50 **section.**

51           **6. (1) Net rents and royalties from real property located in this state are allocable**  
52 **to this state.**

53           **(2) Net rents and royalties from tangible personal property are allocable to this**  
54 **state:**

55           **(a) If and to the extent the property is utilized in this state; or**

56           **(b) In their entirety if the corporation's commercial domicile is in this state and the**  
57 **corporation is not organized under the laws of or taxable in the state in which the property**  
58 **is utilized.**

59           **(3) The extent of utilization of tangible personal property in a state is determined**  
60 **by multiplying the rents and royalties by a fraction, the numerator of which is the number**  
61 **of days of physical location of the property in the state during the rental or royalty period**  
62 **in the taxable year and the denominator of which is the number of days of physical location**  
63 **of the property everywhere during all rental or royalty periods in the taxable year. If the**  
64 **physical location of the property during the rental or royalty period is unknown or**  
65 **unascertainable by the corporation, tangible personal property is utilized in the state in**  
66 **which the property was located at the time the rental or royalty payer obtained possession.**

67           **7. (1) Capital gains and losses from sales of real property located in this state are**  
68 **allocable to this state.**

69           **(2) Capital gains and losses from sales of tangible personal property are allocable**  
70 **to this state if:**

71           **(a) The property had a situs in this state at the time of the sale; or**

72           **(b) The corporation's commercial domicile is in this state and the corporation is not**  
73 **taxable in the state in which the property had a situs.**

74           **(3) Capital gains and losses from sales of intangible personal property are allocable**  
75 **to this state if the corporation's commercial domicile is in this state.**

76           **8. Interest and dividends are allocable to this state if the corporation's commercial**  
77 **domicile is in this state, provided that the corporation is not a financial organization.**

78           **9. (1) Patent and copyright royalties are allocable to this state:**

79           **(a) If and to the extent that the patent or copyright is utilized by the payer in this**  
80 **state; or**

81           **(b) If and to the extent that the patent or copyright is utilized by the payer in a state**  
82 **in which the corporation is not taxable and the corporation's commercial domicile is in this**  
83 **state.**

84           **(2) A patent is utilized in a state to the extent that it is employed in production,**  
85 **fabrication, manufacturing, or other processing in the state or to the extent that a patented**  
86 **product is produced in the state. If the basis of receipts from patent royalties does not**

87 permit allocation to states or if the accounting procedures do not reflect states of  
88 utilization, the patent is utilized in the state in which the corporation's commercial domicile  
89 is located.

90 (3) A copyright is utilized in a state to the extent that printing or other publication  
91 originates in the state. If the basis of receipts from copyright royalties does not permit  
92 allocation to states or if the accounting procedures do not reflect states of utilization, the  
93 copyright is utilized in the state in which the corporation's commercial domicile is located.

94 10. All apportionable income shall be apportioned to this state by multiplying the  
95 net income by a fraction, the numerator of which is the total receipts of the corporation in  
96 this state during the tax period and the denominator of which is the total receipts of the  
97 corporation everywhere during the tax period.

98 11. Receipts from the sale of tangible personal property are in this state if the  
99 property is received in this state by the purchaser. In the case of the delivery of goods by  
100 common carrier or by other means of transportation, including transportation by the  
101 purchaser, the place at which the goods are ultimately received after all transportation has  
102 been completed shall be considered as the place at which the goods are received by the  
103 purchaser. Direct delivery into this state by the taxpayer to a person or firm designated  
104 by a purchaser from within or without the state shall constitute delivery to the purchaser  
105 in this state.

106 12. (1) Receipts, other than receipts described in subsection 11 of this section, are  
107 in this state if the corporation's market for the sales is in this state. The corporation's  
108 market for sales is in this state:

109 (a) In the case of sale, rental, lease, or license of real property, if and to the extent  
110 the property is located in this state;

111 (b) In the case of rental, lease, or license of tangible personal property, if and to the  
112 extent the property is located in this state;

113 (c) In the case of sale of a service, if and to the extent the beneficiary of the service  
114 is located in this state and shall not be in this state if the beneficiary of the service rendered  
115 by the corporation or the corporation's designee is located outside this state; and

116 (d) In the case of intangible property:

117 a. That is rented, leased, or licensed, if and to the extent the property is used in this  
118 state, provided that intangible property utilized in marketing a good or service to a  
119 consumer is "used in this state" if that good or service is purchased by a consumer who is  
120 in this state. Franchise fees or royalties received for the rent, lease, license, or use of a  
121 trade name, trademark, service mark, or franchise system or provides a right to conduct

122 **business activity in a specific geographic area "are used in this state" to the extent the**  
123 **franchise is located in this state; and**

124 **b. That is sold, if and to the extent the property is used in this state, provided that:**

125 **(i) A contract right, government license, or similar intangible property that**  
126 **authorizes the holder to conduct a business activity in a specific geographic area is "used**  
127 **in this state" if the geographic area includes all or part of this state;**

128 **(ii) Receipts from intangible property sales that are contingent on the productivity,**  
129 **use, or disposition of the intangible property shall be treated as receipts from the rental,**  
130 **lease, or licensing of such intangible property under subparagraph a. of this paragraph;**  
131 **and**

132 **(iii) All other receipts from a sale of intangible property shall be excluded from the**  
133 **numerator and denominator of the receipts factor.**

134 **(2) If the state or states of assignment under subdivision (1) of this subsection**  
135 **cannot be determined, the state or states of assignment shall be reasonably approximated.**

136 **(3) The director may prescribe regulations as necessary or appropriate to carry out**  
137 **the purposes of this section.**

138 **13. (1) In the case of certain industries where unusual factual situations produce**  
139 **inequitable results under the apportionment and allocation provisions of this section, the**  
140 **director shall promulgate rules for determining the apportionment and allocation factors**  
141 **for each such industry, but such rules shall be applied uniformly.**

142 **(2) If the allocation and apportionment provisions of this section do not fairly**  
143 **represent the extent of the corporation's income applicable to this state, the corporation**  
144 **may petition for or the director may require:**

145 **(a) Separate accounting;**

146 **(b) The inclusion of one or more additional factors which will fairly represent the**  
147 **corporation's income applicable to this state; or**

148 **(c) The employment of any other method to effectuate an equitable allocation and**  
149 **apportionment of the corporation's income.**

150 **(3) The party petitioning for, or the director requiring, the use of any method to**  
151 **effectuate an equitable allocation and apportionment of the corporation's income pursuant**  
152 **to subdivision (2) of this subsection shall prove by a preponderance of evidence:**

153 **(a) That the allocation and apportionment provisions of this section do not fairly**  
154 **represent the extent of the corporation's income applicable to this state; and**

155 **(b) That the alternative to such provisions is reasonable. The same burden of proof**  
156 **shall apply whether the corporation is petitioning for, or the director is requiring, the use**  
157 **of any reasonable method to effectuate an equitable allocation and apportionment of the**

158 corporation's income. Notwithstanding the previous sentence, if the director can show that  
159 in any two of the prior five tax years, the corporation had used an allocation or  
160 apportionment method at variance with its allocation or apportionment method or  
161 methods used for such other tax years, then the director shall not bear the burden of proof  
162 in imposing a different method pursuant to subdivision (2) of this subsection.

163 (4) If the director requires any method to effectuate an equitable allocation and  
164 apportionment of the corporation's income, the director cannot impose any civil or  
165 criminal penalty with reference to the tax due that is attributable to the corporation's  
166 reasonable reliance solely on the allocation and apportionment provisions of this section.

167 (5) A corporation that has received written permission from the director to use a  
168 reasonable method to effectuate an equitable allocation and apportionment of the  
169 corporation's income shall not have that permission revoked with respect to transactions  
170 and activities that have already occurred unless there has been a material change in, or a  
171 material misrepresentation of, the facts provided by the corporation upon which the  
172 director reasonably relied.

173 14. Any corporation described in subdivision (1) of subsection 1 of section 143.441  
174 organized in this state or granted a permit to operate in this state for the transportation  
175 or care of passengers shall report its gross earnings within the state on intrastate business  
176 and shall also report its gross earnings on all interstate business done in this state. Such  
177 report shall be subject to inquiry for the purpose of determining the amount of income to  
178 be included in Missouri taxable income. This subsection shall not apply to a railroad.

179 15. A corporation described in subdivision (2) of subsection 1 of section 143.441  
180 shall include in its Missouri taxable income all income arising from all sources in this state  
181 and all income from each transportation service wholly within this state, from each service  
182 where the only rails and lines of such corporation used are those in this state, and such  
183 proportion of revenue from each service where the facilities of such corporation in this  
184 state and in another state or states are used, as the mileage used over the rails and lines of  
185 such corporation in the state shall bear to the total mileage used over the rails and lines of  
186 such corporation. The corporation may elect to compute the portion of income from all  
187 sources within this state in the following manner:

188 (1) The income from all sources shall be determined as provided;

189 (2) The amount of investment of such corporation on December thirty-first of each  
190 year in this state in fixed transportation facilities, real estate and improvements, plus the  
191 value on December thirty-first of each year of any fixed transportation facilities, real estate  
192 and improvements in this state leased from any other railroad shall be divided by the sum  
193 of the total amount of investment of such corporation on December thirty-first of each year

194 in fixed transportation facilities, real estate and improvements, plus the value on December  
195 thirty-first of each year, of any fixed transportation facilities, real estate and improvements  
196 leased from any other railroad. Where any fixed transportation facilities, real estate or  
197 improvements are leased by more than one railroad, such portion of the value shall be used  
198 by each railroad as the rental paid by each shall bear to the rental paid by all lessees. The  
199 income shall be multiplied by the fraction thus obtained to determine the proportion to be  
200 used to arrive at the amount of Missouri taxable income.

201       **16. A corporation described in subdivision (3) of subsection 1 of section 143.441**  
202 **shall include in its Missouri taxable income one-half of the net income from the operation**  
203 **of a bridge between this and another state. If any such bridge is owned or operated by a**  
204 **railroad corporation or corporations, or by a corporation owning a railroad corporation**  
205 **using such bridge, then the figures for operation of such bridge may be included in the**  
206 **return of such railroad or railroads; or if such bridge is owned or operated by any other**  
207 **corporation which may now or hereafter be required to file an income tax return, one-half**  
208 **of the income or loss to such corporation from such bridge may be included in such return**  
209 **by adding or subtracting the same to or from another net income or loss shown by the**  
210 **return.**

211       **17. A corporation described in subdivision (4) of subsection 1 of section 143.441**  
212 **shall include in its Missouri taxable income all income arising from all sources within this**  
213 **state. Income shall include revenue from each telephonic or telegraphic service rendered**  
214 **wholly within this state; from each service rendered for which the only facilities of such**  
215 **corporation used are those in this state; and from each service rendered over the facilities**  
216 **of such corporation in this state and in other state or states, such proportion of such**  
217 **revenue as the mileage involved in this state shall bear to the total mileage involved over**  
218 **the lines of said company in all states. The corporation may elect to compute the portion**  
219 **of income from all sources within this state in the following manner:**

220       **(1) The income from all sources shall be determined as provided;**

221       **(2) The amount of investment of such corporation on December thirty-first of each**  
222 **year in this state in telephonic or telegraphic facilities, real estate and improvements**  
223 **thereon, shall be divided by the amount of the total investment of such corporation on**  
224 **December thirty-first of each year in telephonic or telegraphic facilities, real estate and**  
225 **improvements. The income of the corporation shall be multiplied by the fraction thus**  
226 **obtained to determine the proportion to be used to arrive at the amount of Missouri**  
227 **taxable income.**

228       **18. From the income determined in this section to be from all sources within this**  
229 **state shall be deducted such of the deductions for expenses in determining Missouri taxable**

230 income as were incurred in this state to produce such income and all losses actually  
231 sustained in this state in the business of the corporation.

232 **19. If a corporation derives only part of its income from sources within Missouri,**  
233 **its Missouri taxable income shall only reflect the effect on Missouri taxable income of the**  
234 **deduction for net operating loss allowed by Section 172 of the Internal Revenue Code. The**  
235 **extent applicable to Missouri shall be determined by multiplying the amount that would**  
236 **otherwise affect Missouri taxable income by the ratio for the year of the Missouri taxable**  
237 **income of the corporation for the year divided by the Missouri taxable income for the year**  
238 **as though the corporation had derived all of its income from sources within Missouri. For**  
239 **the purpose of the preceding sentence, Missouri taxable income shall not reflect the**  
240 **deduction.**

241 **20. Any investment funds service corporation organized as a corporation or S**  
242 **corporation which has any shareholders resided in this state shall be subject to**  
243 **Missouri income tax as provided in this chapter.**

244 **21. Notwithstanding the Multistate Tax Compact, sections 32.200 to 32.240; this**  
245 **section; and section 143.461 to the contrary, sales and business transactions shall not**  
246 **include any intercompany transactions between corporations of an affiliated group that**  
247 **file a consolidated income tax return in this state. For purposes of this subdivision,**  
248 **"affiliated group" has the same meaning as that term is defined under 26. U.S.C. Section**  
249 **1504(a) and "intercompany transaction" has the same meaning as that term is defined**  
250 **under 26 C.F.R. Section 1.1502-13.**

143.461. 1. A corporation shall elect to determine income applicable to this state by  
2 multiplying the total income from all sources by the fraction determined in the manner in section  
3 ~~[143.451]~~ **143.455**; first, by filing written notice with the director of revenue on or before the due  
4 date of the return (including extensions of time) of the taxpayer's election, or, second, by failing  
5 to keep its books and records in such manner as to show the income applicable to this state,  
6 including gross income and deductions applicable thereto.

7 2. If the corporation shall keep its books and records so as to show **the income**  
8 **applicable to this state** by any other method of allocation between this state and other states  
9 ~~[involved of income from transactions partially within and partially without this state]~~, including  
10 gross income and deductions applicable thereto, and such method shows the income applicable  
11 to this state, including gross income and deductions applicable thereto, then it may, on or before  
12 sixty days before the end of any taxable year, petition the director of revenue, in writing, to be  
13 permitted in its return required to be filed to apportion to this state according to the method  
14 shown by such books or records. If the director of revenue finds that such method does show  
15 the income applicable to this state including gross income and the deductions applicable thereto,

16 he **or she** shall notify the corporation, at least thirty days prior to the last day on which such  
17 corporation's return for that taxable year is to be filed, that it may use that method **for the**  
18 **shorter of five years or** as long as such method shows the income applicable to this state,  
19 including gross income and deductions applicable thereto.

20 3. The corporation shall cease using such method **after the shorter of five years or**  
21 whenever the director of revenue finds and notifies such corporation on or before ninety days  
22 before the end of the taxable year, that such method does not so show. Upon and after such  
23 **expiration or** revocation the corporation shall be permitted to petition to use **the same or**  
24 another method of allocation that will show such income including gross income and deductions  
25 applicable thereto as though no petition had ever been filed.

26 4. Failure, after a method has **expired or** been revoked by the director of revenue, to  
27 submit a method which the director of revenue finds will show such income applicable to this  
28 state including gross income and deductions applicable thereto, on or before sixty days before  
29 the end of any taxable year, or failure to make a return on the basis, which has been approved by  
30 the director of revenue on petition of the corporation and which stands unrevoked **or unexpired,**  
31 shall constitute an election to accept the determination of income applicable to this state by  
32 multiplying the total income from all sources by the fraction determined in the manner set forth  
33 in section 143.451 **or, for a tax year beginning on or after January 1, 2019, in the manner**  
34 **set forth in section 143.455.**

143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue  
2 Code, shall not be subject to the taxes imposed by section 143.071, or other sections imposing  
3 income tax on corporations.

4 2. A shareholder of an S corporation shall determine such shareholder's S corporation  
5 modification and pro rata share, including its character, by applying the following:

6 (1) Any modification described in sections 143.121 and 143.141 which relates to an item  
7 of S corporation income, gain, loss, or deduction shall be made in accordance with the  
8 shareholder's pro rata share, for federal income tax purposes, of the item to which the  
9 modification relates. Where a shareholder's pro rata share of any such item is not required to be  
10 taken into account separately for federal income tax purposes, the shareholder's pro rata share  
11 of such item shall be determined in accordance with his pro rata share, for federal income tax  
12 purposes, of S corporation taxable income or loss generally;

13 (2) Each item of S corporation income, gain, loss, or deduction shall have the same  
14 character for a shareholder pursuant to sections 143.005 to 143.998 as it has for federal income  
15 tax purposes. Where an item is not characterized for federal income tax purposes, it shall have  
16 the same character for a shareholder as if realized directly from the source from which realized  
17 by the S corporation or incurred in the same manner as incurred by the S corporation.

18           3. A nonresident shareholder of an S corporation shall determine such shareholder's  
19 Missouri nonresident adjusted gross income and his or her nonresident shareholder modification  
20 by applying the provisions of this subsection. Items shall be determined to be from sources  
21 within this state pursuant to regulations of the director of revenue in a manner consistent with  
22 the division of income provisions of section 143.451, section 143.461, or section 32.200  
23 (Multistate Tax Compact). In determining the adjusted gross income of a nonresident  
24 shareholder of any S corporation, there shall be included only that part derived from or connected  
25 with sources in this state of the shareholder's pro rata share of items of S corporation income,  
26 gain, loss or deduction entering into shareholder's federal adjusted gross income, as such part is  
27 determined pursuant to regulations prescribed by the director of revenue in accordance with the  
28 general rules in section 143.181. Any modification described in subsections 2 and 3 of section  
29 143.121 and in section 143.141, which relates to an item of S corporation income, gain, loss, or  
30 deduction shall be made in accordance with the shareholder's pro rata share, for federal income  
31 tax purposes, of the item to which the modification relates, but limited to the portion of such item  
32 derived from or connected with sources in this state.

33           4. **Notwithstanding subsection 3 of this section to the contrary, for all tax years**  
34 **beginning on or after January 1, 2019, the items referred to in that subsection shall be**  
35 **determined to be from sources within this state pursuant to regulations of the director of**  
36 **revenue in a manner consistent with the division of income provisions of section 143.455**  
37 **and section 143.461.**

38           5. The director of revenue shall permit S corporations to file composite returns and to  
39 make composite payments of tax on behalf of its nonresident shareholders not otherwise required  
40 to file a return. If the nonresident shareholder's filing requirements result solely from one or  
41 more interests in any other partnerships or subchapter S corporations, that nonresident  
42 shareholder may be included in the composite return.

43           [5-] 6. If an S corporation pays or credits amounts to any of its nonresident individual  
44 shareholders as dividends or as their share of the S corporation's undistributed taxable income  
45 for the taxable year, the S corporation shall either timely file with the department of revenue an  
46 agreement as provided in subsection [6] 7 of this section or withhold Missouri income tax as  
47 provided in subsection [7] 8 of this section. An S corporation that timely files an agreement as  
48 provided in subsection [6] 7 of this section with respect to a nonresident shareholder for a taxable  
49 year shall be considered to have timely filed such an agreement for each subsequent taxable year.  
50 An S corporation that does not timely file such an agreement for a taxable year shall not be  
51 precluded from timely filing such an agreement for subsequent taxable years. An S corporation  
52 is not required to deduct and withhold Missouri income tax for a nonresident shareholder if:

53 (1) The nonresident shareholder not otherwise required to file a return agrees to have the  
54 Missouri income tax due paid as part of the S corporation's composite return;

55 (2) The nonresident shareholder not otherwise required to file a return had Missouri  
56 assignable federal adjusted gross income from the S corporation of less than twelve hundred  
57 dollars;

58 (3) The S corporation is liquidated or terminated;

59 (4) Income was generated by a transaction related to termination or liquidation; or

60 (5) No cash or other property was distributed in the current and prior taxable year.

61 ~~[6-]~~ 7. The agreement referred to in subdivision (1) of subsection ~~[5]~~ 6 of this section  
62 is an agreement of a nonresident shareholder of the S corporation to:

63 (1) File a return in accordance with the provisions of section 143.481 and to make timely  
64 payment of all taxes imposed on the shareholder by this state with respect to income of the S  
65 corporation; and

66 (2) Be subject to personal jurisdiction in this state for purposes of the collection of  
67 income taxes, together with related interest and penalties, imposed on the shareholder by this  
68 state with respect to the income of the S corporation.

69

70 The agreement will be considered timely filed for a taxable year, and for all subsequent taxable  
71 years, if it is filed at or before the time the annual return for such taxable year is required to be  
72 filed pursuant to section 143.511.

73 ~~[7-]~~ 8. The amount of Missouri income tax to be withheld is determined by multiplying  
74 the amount of dividends or undistributed income allocable to Missouri that is paid or credited  
75 to a nonresident shareholder during the taxable year by the highest rate used to determine a  
76 Missouri income tax liability for an individual, except that the amount of the tax withheld may  
77 be determined based on withholding tables provided by the director of revenue if the shareholder  
78 submits a Missouri withholding allowance certificate.

79 ~~[8-]~~ 9. An S corporation shall be entitled to recover for a shareholder on whose behalf  
80 a tax payment was made pursuant to this section, if such shareholder has no tax liability.

81 ~~[9-]~~ 10. With respect to S corporations that are banks or bank holding companies, a pro  
82 rata share of the tax credit for the tax payable pursuant to chapter 148 shall be allowed against  
83 each S corporation shareholders' state income tax as follows, provided the bank otherwise  
84 complies with section 148.112:

85 (1) The credit allowed by this subsection shall be equal to the bank tax calculated  
86 pursuant to chapter 148 based on bank income in 1999 and after, on a bank that makes an  
87 election pursuant to 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying  
88 shareholder according to stock ownership, determined by multiplying a fraction, where the

89 numerator is the shareholder's stock, and the denominator is the total stock issued by such bank  
90 or bank holding company;

91 (2) The tax credit authorized in this subsection shall be permitted only to the  
92 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
93 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
94 stock is held by the shareholder during the taxable period. The credit created by this section on  
95 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
96 returns. A bank holding company is not allowed this credit, except that, such credit shall flow  
97 through to such bank holding company's qualified shareholders, and be allocated to such  
98 shareholders under the same conditions; and

99 (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
100 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
101 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
102 taxable income.

103 ~~[40-]~~ **11.** With respect to S corporations that are associations, a pro rata share of the tax  
104 credit for the tax payable under chapter 148 shall be allowed against each S corporation  
105 shareholders' state income tax as follows, provided the association otherwise complies with  
106 section 148.655:

107 (1) The credit allowed by this subsection shall be equal to the savings and loan  
108 association tax calculated under chapter 148 based on the computations provided in section  
109 148.630 on an association that makes an election under 26 U.S.C. Section 1362, and such credit  
110 shall be allocated to the qualifying shareholder according to stock ownership, determined by  
111 multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is  
112 the total stock issued by the association;

113 (2) The tax credit authorized in this subsection shall be permitted only to the  
114 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
115 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
116 stock is held by the shareholder during the taxable period. The credit created by this section on  
117 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
118 returns. A savings and loan association holding company is not allowed this credit, except that,  
119 such credit shall flow through to such savings and loan association holding company's qualified  
120 shareholders, and be allocated to such shareholders under the same conditions; and

121 (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
122 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
123 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
124 taxable income.

125           ~~[11-]~~ **12.** With respect to S corporations that are credit institutions, a pro rata share of  
 126 the tax credit for the tax payable under chapter 148 shall be allowed against each S corporation  
 127 shareholders' state income tax as follows, provided the credit institution otherwise complies with  
 128 section 148.657:

129           (1) The credit allowed by this subsection shall be equal to the credit institution tax  
 130 calculated under chapter 148 based on the computations provided in section 148.150 on a credit  
 131 institution that makes an election under 26 U.S.C. Section 1362, and such credit shall be  
 132 allocated to the qualifying shareholder according to stock ownership, determined by multiplying  
 133 a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock  
 134 issued by such credit institution;

135           (2) The tax credit authorized in this subsection shall be permitted only to the  
 136 shareholders that qualify as S corporation shareholders, provided the stock at all times during the  
 137 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such  
 138 stock is held by the shareholder during the taxable period. The credit created by this section on  
 139 a yearly basis is available to each qualifying shareholder, including shareholders filing joint  
 140 returns. A credit institution holding company is not allowed this credit, except that, such credit  
 141 shall flow through to such credit institution holding company's qualified shareholders, and be  
 142 allocated to such shareholders under the same conditions; and

143           (3) In the event such shareholder cannot use all or part of the tax credit in the taxable  
 144 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser  
 145 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri  
 146 taxable income.

**148.720. 1. For all tax years beginning in a calendar year in which there is a  
 2 reduction in the tax rate imposed under section 143.071, there shall be a corresponding and  
 3 proportional reduction in the tax rate imposed under sections 148.030, 148.140, and  
 4 148.620. The reduced tax rate shall be the applicable rate in each subsequent tax year.**

**5           2. The reduction in this section shall occur each year there is a reduction in the tax  
 6 rate imposed under section 143.071, including a reduction in the tax rate by operation of  
 7 a statutory or constitutional change.**

620.1350. 1. The words used in this section and sections 620.1355 and 620.1360 shall,  
 2 unless the context otherwise requires, have the meaning provided in subdivision (4) of subsection  
 3 2 of section 143.451, and in addition, the following words shall have the following meanings:

4           (1) "Department", the department of economic development;

5           (2) "Director", the director of the department of economic development.

6           2. An investment funds service corporation or S corporation, certified pursuant to this  
 7 section and sections 620.1355 and 620.1360, may make an annual election to compute the

8 portion of income derived from sources within this state either pursuant to section 143.451 or  
9 pursuant to section 32.200 relating to the multistate tax compact. The annual election shall be  
10 made by the filing of a corporate income tax return reflecting the use of such election and by  
11 filing a copy of the certificate issued by the director pursuant to the provisions of this section and  
12 sections 620.1355 and 620.1360. The annual election may be made regardless of whether the  
13 corporation filed its income tax return on a single entity basis or was included in a consolidated  
14 income tax return in any year.

15 **3. Notwithstanding the provisions of subsection 2 of this section to the contrary, for**  
16 **all tax years beginning on or after January 1, 2019, an investment funds service**  
17 **corporation or S corporation, certified pursuant to this section and sections 620.1355 and**  
18 **620.1360, shall compute the portion of income derived from sources within this state**  
19 **pursuant to section 143.455.**

2 ~~[143.105. Notwithstanding the provisions of section 143.071, to the~~  
3 ~~contrary, a tax is hereby imposed upon the Missouri taxable income of~~  
~~corporations in an amount equal to five percent of Missouri taxable income.]~~

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